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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,967	07/09/2003	Rael Sacks	RAR333.04	1275

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Ryan & Engnath
Suite 104
8469 N. Millbrook
Fresno, CA 93720

EXAMINER	
GELLNER, JEFFREY L	
ART UNIT	PAPER NUMBER
3643	

DATE MAILED: 07/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/615,967	SACKS, RAEL	
	Examiner	Art Unit	
	Jeffrey L. Gellner	3643	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 June 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) *19 and 20* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Invention I (claims 1-18) in the reply filed on 30 June 2003 is acknowledged. Claims 19 and 20 are withdrawn from prosecution.

Claim Objections

Claims 7, 8, 16, and 17 are objected to because of the following informalities:

In both claims 7 and 8, line 2, "extending portion" should be "one or more extending portions" to conform to the language of claim 1, line 7.

In both claims 16 and 17, line 2, "extending portion" should be "two or more extending portions" to conform to the language of claim 12, line 8.

Appropriate correction is required.

Claim Rejections - 35 USC §103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 2, 6, 8, 9, 12, and 17 are rejected under 35 U.S.C. §103(a) as being unpatentable over Lemelson (US 3,933,3110 in view of Gruber (DE 3039971 A).

As to Claim 1, Lemelson discloses a landscape edging system (Figs. 1-5) comprising an edging strip (11 of Figs. 1 and 5) having top and bottom surfaces (surfaces of 15 and 17 of Fig. 1) and first and second ends, edging strip having a core (12, 15, and 17 of Fig. 1), the core layer having two longitudinal channels (15B and 17B of Fig. 1) disposed therein, each of the channels having a channel wall (shown in Fig. 1); and a connector (20 of Figs. 1 and 4) having a sleeve portion (25, 26, 22, 27, 28 of Fig. 1) with an internal body member (22 of Figs. 1 and 4) having several extending portions ((26A, 26B, 28A, and 8B of Figs. 1 and 2) thereon, each of the extending portions configured to be received in one of the channels. Not disclosed is a relatively thin shell layer disposed around the core layer. Gruber, however, discloses a landscape edging with a core ("made of rigid or elastic plastics" of translated abstract) with a relatively thin shell layer ("plastic coating" of translated abstract). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the edging system of Lemelson by adding a plastic coating as disclosed by Gruber so as to provide a protective covering (for example, Beladakis (US 5,715,628) teaches a protective covering, coating, for lawn edgings).

As to Claim 2, the limitations of Claim 1 are disclosed as described above. Lemelson further discloses coextrusion in an edging (col. 2 lines 1-8). Not disclosed is coextrusion of the core and shell layers. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the edging system of Lemelson as modified by Gruber by making by coextrusion as disclosed by Lemelson so as to make at a low cost (see Lemelson at col. 1 line 29).

As to Claim 6, Lemelson as modified by Gruber further disclose the core layer with two longitudinal channels (15 and 17 of Fig. 1 of Lemelson) and the connector with to extending portions (see Figs. 1 and 4 of Lemelson).

As to Claim 8, the limitations of Claim 1 are disclosed as described above. Not disclosed are the connector's extending portions having protruding barbs. Examiner takes official notice that it is old and notoriously well known in the connector art to use protruding barbs to make a connection more tight. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the edging system of Lemelson as modified by Gruber by making the connector's extending portions with protruding barbs so as to make the connection more tight.

As to Claim 9, Lemelson as modified by Gruber further disclose the channels with openings at the first and second ends of the strip (Fig. 1 of Lemelson).

As to Claim 12, Lemelson discloses a landscape edging system (Figs. 1-5) comprising an edging strip (11 of Figs. 1 and 5) having top and bottom surfaces (surfaces of 15 and 17 of Fig. 1) and first and second ends, edging strip having a core (12, 15, and 17 of Fig. 1), the core coextruded (col. 2 lines 1-9); the core layer having two longitudinal channels (15B and 17B of Fig. 1) disposed therein, each of the channels having a channel wall (shown in Fig. 1); and a connector (20 of Figs. 1 and 4) having a sleeve portion (25, 26, 22, 27, 28 of Fig. 1) with an internal body member (22 of Figs. 1 and 4) having several extending portions ((26A, 26B, 28A, and 8B of Figs. 1 and 2) thereon, each of the extending portions configured to be received in one

of the channels. Not disclosed is a relatively thin shell layer disposed around the core layer and both layers coextruded. Gruber, however, discloses a landscape edging with a core ("made of rigid or elastic plastics" of translated abstract) with a relatively thin shell layer ("plastic coating" of translated abstract). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the edging system of Lemelson by adding a plastic coating as disclosed by Gruber so as to provide a protective covering (for example, Beladakis (US 5,715,628) teaches a protective covering, coating, for lawn edgings) and by making by coextrusion as disclosed by Lemelson so as to make at a low cost (see Lemelson at col. 1 line 29)..

As to Claim 17, the limitations of Claim 12 are disclosed as described above. Not disclosed are the connector's extending portions having protruding barbs. Examiner takes official notice that it is old and notoriously well known in the connector art to use protruding barbs to make a connection more tight. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the edging system of Lemelson as modified by Gruber by making the connector's extending portions with protruding barbs so as to make the connection more tight.

Claims 3-5 and 13-15 are rejected under 35 U.S.C. §103(a) as being unpatentable over Lemelson (US 3,933,3110 in view of Gruber (DE 3039971 A) in further view of Walsh et al. (US 4,820,469).

As to Claim 3, the limitations of Claim 1 are disclosed as described above. Not disclosed is the core layer made of regrind plastic. Walsh et al., however, discloses the use of regrind

plastic in a core (col. 11 lines 52-64). It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the edging system of Lemelson as modified by Gruber by using regrind plastic as the core as disclosed by Walsh et al. so as to find a use for reprocessed material (col. 3 lines 39-45 of Walsh et al.).

As to Claim 4, the limitations of Claim 1 are disclosed as described above. Not disclosed is the shell layer made of high quality plastic. Walsh et al., however, discloses the use of high quality plastic in a shell (col. 11 lines 52-64). It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the edging system of Lemelson as modified by Gruber by using high quality plastic as the shell as disclosed by Walsh et al. so as to find a use for reprocessed material (col. 3 lines 39-45 of Walsh et al.) that still retains a high performance outer layer.

As to Claim 5, the limitations of Claim 1 are disclosed as described above. Lemelson further discloses coextrusion in an edging (col. 2 lines 1-8). Not disclosed is the core layer being regrind plastic and the shell layer being high quality plastic. Walsh et al., however, discloses the use of regrind plastic in a core and high quality plastic in a shell (col. 11 lines 52-64). It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the edging system of Lemelson as modified by Gruber by making by coextrusion as disclosed by Lemelson so as to make at a low cost (see Lemelson at col. 1 line 29) and by using regrind plastic as the core and high quality plastic in a shell as disclosed by Walsh et al. so as to find a use for reprocessed material (col. 3 lines 39-45 of Walsh et al.) that still retains a high performance outer layer.

As to Claim 13, the limitations of Claim 12 are disclosed as described above. Not disclosed is the core layer made of regrind plastic. Walsh et al., however, discloses the use of regrind plastic in a core (col. 11 lines 52-64). It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the edging system of Lemelson as modified by Gruber by using regrind plastic as the core as disclosed by Walsh et al. so as to find a use for reprocessed material (col. 3 lines 39-45 of Walsh et al.).

As to Claim 14, the limitations of Claim 12 are disclosed as described above. Not disclosed is the shell layer made of high quality plastic. Walsh et al., however, discloses the use of high quality plastic in a shell (col. 11 lines 52-64). It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the edging system of Lemelson as modified by Gruber by using high quality plastic as the shell as disclosed by Walsh et al. so as to find a use for reprocessed material (col. 3 lines 39-45 of Walsh et al.) that still retains a high performance outer layer.

As to Claim 15, the limitations of Claim 12 are disclosed as described above. Not disclosed is the core layer being regrind plastic and the shell layer being high quality plastic. Walsh et al., however, discloses the use of regrind plastic in a core and high quality plastic in a shell (col. 11 lines 52-64). It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the edging system of Lemelson as modified by Gruber by making by using regrind plastic as the core and high quality plastic in a shell as disclosed by Walsh et al. so as to find a use for reprocessed material (col. 3 lines 39-45 of Walsh et al.) that still retains a high performance outer layer.

Claims 7 and 16 are rejected under 35 U.S.C. §103(a) as being unpatentable over Lemelson (US 3,933,3110 in view of Gruber (DE 3039971 A) in further view of Wuster (US 6,389,742 B1).

As to Claim 7, the limitations of Claim 1 are disclosed as described above. Not disclosed is the one or more extending portions being tapered. Wuster, however, discloses a connector with extending portions that are tapered (7 of Fig. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the edging system of Lemelson as modified by Gruber by having the connector's extending portions being tapered as disclosed by Wuster so as to facilitate the ease of connecting the edging parts.

As to Claim 16, the limitations of Claim 12 are disclosed as described above. Not disclosed is the one or more extending portions being tapered. Wuster, however, discloses a connector with extending portions that are tapered (7 of Fig. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the edging system of Lemelson as modified by Gruber by having the connector's extending portions being tapered as disclosed by Wuster so as to facilitate the ease of connecting the edging parts.

Claims 10, 11, and 18 are rejected under 35 U.S.C. §103(a) as being unpatentable over Lemelson (US 3,933,3110 in view of Gruber (DE 3039971 A) in further view of Danna et al. (US 6,108,969).

As to Claim 10, the limitations of Claim 1 are disclosed as described above. Not disclosed is a stake member configured to engage the strip to the ground. Danna et al., however, discloses a stake member (25 of Fig. 6) configured to engage the strip to the ground. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify

the edging system of Lemelson as modified by Gruber by adding a stake member as disclosed by Danna et al. so as to make the edging more secure in the ground.

As to Claim 11, Lemelson as modified by Gruber (DE 3039971 A) as further modified by Danna et al. further disclose the stake member penetrating the side of the edging strip (Fig. 6 of Danna et al.).

As to Claim 18, the limitations of Claim 12 are disclosed as described above. Not disclosed is a stake member configured to engage the strip to the ground. Danna et al., however, discloses a stake member (25 of Fig. 6) configured to engage the strip to the ground. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the edging system of Lemelson as modified by Gruber by adding a stake member as disclosed by Danna et al. so as to make the edging more secure in the ground.

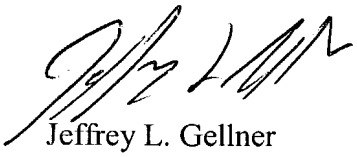
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Backman disclose in the prior art an edging with a shell. Herrema et al. disclose in the prior art an edging with a stake.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jeffrey L. Gellner whose phone number is 703.305.0053. The Examiner can normally be reached Monday through Thursday from 8:30 am to 4:00 pm. The Examiner can also be reached on alternate Fridays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Peter Poon, can be reached at 703.308.2574. The official fax telephone number for the Technology Center where this application or proceeding is assigned is 703.872.9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.



Jeffrey L. Gellner